

ASSEMBLY BILL

No. 162

Introduced by Assembly Member Ruskin

January 27, 2009

An act to amend Sections 398.2, 398.4, and 398.5 of the Public Utilities Code, relating to electrical suppliers.

LEGISLATIVE COUNSEL'S DIGEST

AB 162, as introduced, Ruskin. Electric service providers: reporting requirements

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations.

Existing law establishes a program under which entities offering electric services in California disclose accurate, reliable, and simple to understand information on the sources of energy that are used to provide electric services.

This bill would define the term “unspecified sources of power” for purposes of the above-described disclosure requirements to mean electricity generated that cannot be matched to a particular generating facility. Further this bill would change reporting requirements from quarterly to annually and amend other details regarding disclosures and eliminate certain reporting requirements.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 398.2 of the Public Utilities Code is
2 amended to read:

1 398.2. The definitions set forth in this section shall govern the
2 construction of this article.

3 (a) “System operator” means the Independent System Operator
4 with responsibility for the efficient use and reliable operation of
5 the transmission grid, as provided by Section 345, or a local
6 publicly owned electric utility that does not utilize the Independent
7 System Operator.

8 (b) “Specific purchases” means electricity transactions which
9 are traceable to specific generation sources by any auditable
10 contract trail or equivalent, such as a tradable commodity system,
11 that provides commercial verification that the electricity source
12 claimed has been sold once and only once to a retail consumer.
13 Retail suppliers may rely on annual data to meet this requirement,
14 rather than hour-by-hour matching of loads and resources.

15 (c) “Net system power” means the mix of electricity fuel source
16 types established by the ~~California Energy Resources Conservation~~
17 ~~and Development Commission~~ *Energy Commission* representing
18 the sources of electricity consumed in California that are not
19 disclosed as specific purchases pursuant to Section 398.4.

20 (d) “*Unspecified sources of electricity*” means electricity that
21 cannot be matched to a particular generating facility.

22 SEC. 2. Section 398.4 of the Public Utilities Code is amended
23 to read:

24 398.4. (a) Every retail-supplier seller, as defined in Section
25 399.12, that makes an offering to sell electricity that is consumed
26 in California shall disclose its electricity sources *for the previous*
27 *calendar year*. A retail supplier that does not make any claims that
28 identify its electricity sources as different than net system power
29 may disclose net system power. Every retail supplier that makes
30 an offering to sell electricity that is consumed in California and
31 makes any claims that identify any of its electricity sources as
32 different than net system power shall disclose these sources as
33 specific purchases.

34 (b) The disclosures required by this section shall be made to
35 potential end-use consumers in all product-specific written
36 promotional materials that are distributed to consumers by either
37 printed or electronic means, except that advertisements and notices
38 in general circulation media shall not be subject to this requirement.

39 (c) The disclosures required by this section shall be made ~~at~~
40 ~~least quarterly~~ *annually* to end-use consumers of the offered

1 electricity. *The annual disclosure shall be made by the end of the*
 2 *first complete billing cycle for the third quarter of the year, and*
 3 *shall be consistent with information provided to the Energy*
 4 *Commission pursuant to Section 398.5.*

5 (d) The disclosures required by this section shall be made
 6 separately for each offering made by the retail supplier.

7 (e) On or before January 1, 1998, the ~~California Energy~~
 8 ~~Resources Conservation and Development~~ Energy Commission
 9 shall specify guidelines for the format and means for disclosure
 10 required by Section 398.3 and this section, based on the
 11 requirements of this article and subject to public hearing.

12 (f) The costs of making the disclosures required by this section
 13 shall be considered to be ~~generation-related~~ *generation related*.

14 (g) The disclosures required by this section shall ~~be expressed~~
 15 ~~as a percentage of annual sales derived from each of the following~~
 16 ~~categories, unless no specific purchases are disclosed, in which~~
 17 ~~case only the first category shall be disclosed~~ *comply with the*
 18 *following:*

19 (1) ~~Net system power.~~ *A retail seller's disclosure of its*
 20 *electricity sources shall be expressed as a percentage of annual*
 21 *sales derived from each of the following categories, unless no*
 22 *specific purchases are disclosed, in which only the first category*
 23 *shall be disclosed.*

24 (A) *Net system electricity or unspecified sources of electricity.*

25 (B) *Specific purchases.*

26 (2) ~~Specific purchases.~~ *A retail seller's disclosure of its*
 27 *electricity sources shall also separately identify total California*
 28 *system electricity, which is the sum of all in-state generation and*
 29 *net electricity imports by fuel type.*

30 (h) ~~(1)~~ Each of the categories specified in subdivision (g) shall
 31 be additionally identified as a percentage of annual sales that is
 32 derived from each fuel type of the categories specified as follows:

33 ~~(A)~~

34 (1) Coal.

35 ~~(B)~~

36 (2) Large hydroelectric (greater than 30 megawatts).

37 ~~(C)~~

38 (3) Natural gas.

39 ~~(D)~~

40 (4) Nuclear.

1 ~~(E)~~

2 (5) Other *categories as determined by the Energy Commission.*

3 ~~(F)~~

4 ~~(6) Eligible renewables, which means renewable energy resource~~
5 ~~technologies as defined as electricity produced from other than a~~
6 ~~conventional power source within the meaning of Section 2805,~~
7 ~~provided that a power source utilizing more than 25 percent fossil~~
8 ~~fuel may not be included, shall be additionally identified as a~~
9 ~~percentage of annual sales that is derived from each fuel type of~~
10 ~~the subcategories specified as follows: in Section 399.12.~~

11 ~~(i) Biomass and waste.~~

12 ~~(ii) Geothermal.~~

13 ~~(iii) Small hydroelectric (less than or equal to 30 megawatts).~~

14 ~~(iv) Solar.~~

15 ~~(v) Wind.~~

16 ~~(2) The category “Other” shall be used for fuel types other than~~
17 ~~those listed above that represent less than 2 percent of net system~~
18 ~~power. The California Energy Resources Conservation and~~
19 ~~Development Commission may specify additional categories or~~
20 ~~change these categories, consistent with the requirements of this~~
21 ~~article and subject to public hearing, if it determines that the~~
22 ~~changes will facilitate the disclosure objectives of this section.~~

23 ~~(i) All electricity sources disclosed as specific purchases shall~~
24 ~~meet the requirements of subdivision (b) of Section 398.2.~~

25 ~~(j) Specific purchases identified pursuant to this section shall~~
26 ~~be from sources connected to the Western Electricity Coordinating~~
27 ~~Council interconnected grid.~~

28 ~~(k) Net system power—Unspecified sources of electricity and~~
29 ~~total California system electricity shall be disclosed for the most~~
30 ~~recent calendar year available. Disclosure of net system power~~
31 ~~shall be accompanied by this qualifying note: “The State of~~
32 ~~California determines this net system power mix annually; your~~
33 ~~actual electricity purchases may vary.” The California Energy~~
34 ~~Resources Conservation and Development Commission may~~
35 ~~modify this note, consistent with the requirements of this article~~
36 ~~and subject to public hearing, if it determines that the changes will~~
37 ~~facilitate the disclosure objectives of this section.~~

38 ~~(l) For each offering made by a retail supplier for which specific~~
39 ~~purchases are disclosed, the retail supplier shall disclose projected~~
40 ~~specific purchases for the current calendar year. Projected specific~~

1 purchases need not be disclosed by numerical percentage at the
2 subcategory level identified in subparagraph (F) of paragraph (1)
3 of subdivision (h). On or before April 15, 1999, and annually
4 thereafter, every retail supplier that discloses specific purchases
5 shall also disclose to its customers, separately for each offering
6 made by the retail supplier, its actual specific purchases for the
7 previous calendar year consistent with information provided to the
8 California Energy Resources Conservation and Development
9 Commission pursuant to Section 398.5. Disclosure of projected
10 specific purchases and actual specific purchases shall each be
11 accompanied by statements identifying whether the data are
12 projected or actual, as developed by the California Energy
13 Resources Conservation and Development Commission, subject
14 to public hearing. *Compliance with this section by a local publicly*
15 *owned electric utility shall constitute compliance with paragraph*
16 *(2) of subdivision (b) of Section 387.*

17 (m) The provisions of this section shall not apply to generators
18 providing electric service onsite, under an over-the-fence
19 transaction as described in Section 218, or to an affiliate or
20 affiliates, as defined in subdivision (a) of Section 372.

21 SEC. 3. Section 398.5 of the Public Utilities Code is amended
22 to read:

23 398.5. (a) Retail suppliers *sellers, as defined in Section 399.12,*
24 that disclose specific purchases pursuant to Section 398.4 shall
25 report on ~~March 1, 1999~~ *June 1, 2009*, and annually thereafter, to
26 the ~~California Energy Resources Conservation and Development~~
27 *Energy* Commission, for each electricity offering, for the previous
28 calendar year each of the following:

29 (1) The kilowatthours purchased, by generator and fuel type
30 during the previous calendar year, consistent with the meter data,
31 including losses, reported to the system operator.

32 (2) For each electricity offering the kilowatthours sold at retail.

33 (3) For each electricity offering the disclosures made to
34 consumers pursuant to Section 398.4.

35 (b) Information submitted to the ~~California Energy Resources~~
36 ~~Conservation and Development~~ *Energy* Commission pursuant to
37 this section that is a trade secret as defined in subdivision (d) of
38 Section 3426.1 of the Civil Code shall not be released except in
39 an aggregated form such that trade secrets cannot be discerned.

(c) On or before January 1, 1998, the ~~California Energy Resources Conservation and Development~~ Energy Commission shall specify guidelines and standard formats, based on the requirements of this article and subject to public hearing, for the submittal of information pursuant to this article.

(d) In developing the rules and procedures specified in this section, the ~~California Energy Resources Conservation and Development~~ Energy Commission shall seek to minimize the reporting burden and cost of reporting that it imposes on retail suppliers ~~sellers~~.

(e) ~~On or before October 15, 1999, and annually thereafter, the California Energy Resources Conservation and Development Commission shall issue a report comparing information available pursuant to Section 398.3 with information submitted by retail suppliers pursuant to this section, and with information disclosed to consumers pursuant to Section 398.4. This report shall be forwarded to the California Public Utilities Commission.~~

(f) ~~Beginning April 15, 1999, and annually thereafter, California Energy Resources Conservation and Development Commission~~

(e) *The Energy Commission shall issue an annual report by July 31 of each year calculating net system power electricity.* The California Energy Resources Conservation and Development Energy Commission will establish the generation mix for net generation imports delivered at interface points and metered by the system operators. ~~The California Energy Resources Conservation and Development Commission shall issue an initial report calculating preliminary net system power for calendar year 1997 on or before January 1, 1998. This report shall be updated on or before October 15, 1998.~~

~~(g)~~

(f) The provisions of this section shall not apply to generators providing electric service onsite, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

~~(h)~~

(g) ~~The California Energy Resources Conservation and Development~~ Energy Commission may verify the veracity of environmental claims made by retail suppliers ~~sellers~~.

O